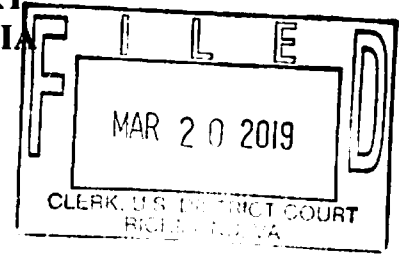


**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
Richmond Division**



KENNETH NEWKIRK,

Plaintiff,

v.

WARDEN KISER, *et al.*,

Defendants.

Civil Action No. 3:19CV150-HEH

MEMORANDUM OPINION
(Dismissing Without Prejudice Miscellaneous Action)


The Court received a copy of a letter Kenneth Newkirk, a Virginia inmate incarcerated in Red Onion State Prison, mailed to the United States Marshals Service. This letter appears to be a form letter that was sent to a variety of law enforcement agencies and requests arrest warrants for his custodians. The Court docketed the letter in an abundance of caution. As an initial matter, Newkirk may not seek arrest warrants for his custodians. “[T]he Court cannot initiate criminal or regulatory investigations of any defendant. Rather, authority to initiate criminal complaints rests exclusively with state and federal prosecutors.” *Barron v. Katz*, No. 6:17-CV-195-KKC, 2017 WL 3431397, at *1 (E.D. Ky. Aug. 9, 2017) (citing *Sahagian v. Dickey*, 646 F. Supp. 1502, 1506 (W.D. Wis. 1986)). Furthermore, Newkirk as “a private citizen lacks a judicially cognizable interest in the [criminal] prosecution or nonprosecution of another.” *Linda R.S. v. Richard D.*, 410 U.S. 614, 619 (1973); *see Lopez v. Robinson*, 914 F.2d 486, 494 (4th Cir. 1990) (“No citizen has an enforceable right to institute a criminal prosecution.”).

To the extent that Newkirk desires to initiate a *civil* action against any of the named individuals, they reside in the Western District of Virginia, and the events giving rise to this action are alleged to have occurred in the Western District of Virginia. Thus, pursuant to 28 U.S.C. § 1391(b), the proper venue for this action is in the Western District of Virginia and is not in the Eastern District of Virginia. Accordingly, Newkirk must file any civil action against these individuals in the Western District of Virginia.

The action will be dismissed without prejudice.

An appropriate Order will accompany this Memorandum Opinion.

Date: March 20, 2019
Richmond, Virginia


_____/s/
HENRY E. HUDSON
SENIOR UNITED STATES DISTRICT JUDGE